

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

BUHRE BEVERAGE DISTRIBUTION, INC.,

Chapter 11

Case No. 14-22048-rdd

Debtor.

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WILLIAM SANCHEZ,

Plaintiff,

Adv. Pro. No.: 14-08218-rdd

-against-

BUHRE BEVERAGE DISTRIBUTION, INC.,
BHAVEEN SAPRA, BRUCKNER BEVERAGE, INC.
and PEPSI-COLA BOTTLING COMPANY OF NEW
YORK, INC.,

Defendants.

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STIPULATION

WHEREAS, on January 13, 2014 (the “Filing Date”) Buhre Beverage Distribution, Inc. (hereinafter, the “Debtor” or “Buhre”) sought to reorganize by filing a voluntary petition for relief under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. Section 101-et seq (the “Bankruptcy Code”); and

WHEREAS, Buhre is the owner of a certain Pepsi Distribution Route together with two (2) delivery trucks and all other miscellaneous assets; and

WHEREAS, on April 4, 2014, William Sanchez (“Sanchez”) filed an adversary proceeding with this court entitled “*William Sanchez v. Buhre Beverage Distribution, Inc., Bhaveen Sapra, Bruckner Beverage, Inc. and Pepsi-cola Bottling Company of New York, Inc.*” bearing adversary proceeding number 14-08218 (the “Sanchez Adversary”); and

WHEREAS, the Sanchez Adversary seeks the reformation of certain inaccurate documents as well as restraining and enjoining Pepsi-Cola Bottling Company of New York, Inc. (“PCBNY”) and/or any of their agents from actively and/or constructively terminating the Debtor’s and/or William Sanchez’s rights under the existing distributor agreement between PCBNY, Buhre and Sanchez; and

WHEREAS, subsequent to the filing of the Sanchez Adversary, PCBNY sent a letter to Sanchez and Buhre dated April 3, 2014 (the “Pepsi Termination Letter”), terminating the Buhre Distributor Agreement effective thirty (30 days) from the date of the mailing of the Pepsi Termination Letter; and

WHEREAS, on May 2, 2014, Sanchez filed a motion seeking, *inter alia* an Order: (a) restraining and enjoining PCBNY and/or any of their agents from actively and/or constructively terminating the Debtor’s and/or William Sanchez’s rights under the existing distributor agreement between PCBNY, Buhre and Sanchez (the “Sanchez Motion”); and

WHEREAS, Buhre has advised Sanchez and PCBNY that it intends to interpose a Motion seeking to sell substantially all of the Debtor’s assets pursuant to §363 of the Bankruptcy Code; and

WHEREAS, the Parties have discussed the present status of the Sanchez Motion and have agreed to the following:

IT IS HEREBY STIPULATED, CONSENTED AND AGREED, by and between the undersigned, none of whom are infants or incompetent, that:

1. PCBNY acknowledges the validity of the automatic bankruptcy stay as imposed by Section 362 of the Bankruptcy Code, and PCBNY will not take any actions to terminate the Pepsi Distribution Route pending further Order of the Court.

2. The Debtor acknowledges that it has a possible buyer for the Debtor's assets and it anticipates interposing a Motion providing for a sale of the Debtor's assets pursuant to Section 363 of the Bankruptcy Code.

3. The Debtor acknowledges that all sales proceeds shall be held in escrow pending resolution of the Sanchez Adversary relating to reformation of the subject documents.

4. Conditioned upon the foregoing, the Parties agree to adjourn the Sanchez Motion until June 18, 2014 at 10:00 a.m.

5. This Stipulation may be executed in counterparts, and the counterparts when taken together shall be construed as one copy.

6. A facsimile or electronically transmitted copy of this stipulation shall be deemed original.

Dated: White Plains, New York

May 28, 2014

Penachio Malara LLP
Counsel to the Debtor

By: /s/ Anne J. Penachio
Anne J. Penachio, Esq.
235 Main Street, Sixth Floor
White Plains, NY 10601
(914) 946-2889

Dated: Melville, New York

May 28, 2014

Law Office of Michael G. Mc Auliffe
Counsel to William Sanchez

By: /s/ Michael G. Mc Auliffe
Michael G. Mc Auliffe, Esq.
68 South Service Road, Suite 100
Melville, New York 11747
(631) 465-0044

Dated: Roseland, New Jersey
May 28, 2014

Greenbaum, Rowe, Smith & Davis, LLP.
Counsel to Pepsi-Cola Bottling Company of New York, Inc.

By: /s/ Nancy Isaacson
Nancy Isaacson, Esq.
75 Livingston Ave
Roseland, NJ 07068-3701
(973) 577-1928